

**RESOLUTION NO. 2011-9**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A INTERLOCAL JOINT USE AGREEMENT WITH MIAMI-DADE COUNTY FOR CALUSA MANGROVE TRAIL (“CMT”) ; PROVIDING FOR PAYMENT OF NOT TO EXCEED \$300,000.00 TO THE COUNTY FOR THE COUNTY TO CONSTRUCT NECESSARY IMPROVEMENTS TO THE CMT; PROVIDING FOR VILLAGE MAINTENANCE OF THE CMT AND NEW IMPROVEMENTS; PROVIDING FOR VILLAGE SECURITY OF THE CMT; PROVIDING FOR RECORDING OF THE EXECUTED AGREEMENT BY THE VILLAGE CLERK; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, since the creation of the Village, the Village and its residents have utilized that portion of Crandon Park known as the Calusa Mangrove Trail which is located within the corporate boundaries of the Village, but which is part of the County owned Crandon Park; and

**WHEREAS**, over time the facilities within the CMT have deteriorated and are in need of substantial renovation and/or changes is their use; and

**WHEREAS**, any use of the CMT must comply with the Crandon Park Master Plan, as it may be amended, that identifies the CMT area as requiring: 1) the renovation of the existing recreation center into an open-but-roofed shelter; 2) renovation and upgrading the restrooms to current Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, et seq.), as amended from time to time, compliance; and 3) renovation and conversion of the four existing non-lighted tennis courts to un-lighted, multipurpose sport courts pursuant to plans that have been submitted by the Village to the County, in accordance with the Crandon Park Master Plan, as amended (the “CMT Improvements”); and

**WHEREAS**, the County has agreed to build the CMT Improvements at a Village cost of not to exceed \$300,000; and

**WHEREAS**, both the Village and the County wish to memorialize their respective obligations regarding the construction, operation, maintenance and use of the CMT and the CMT Improvements; and

**WHEREAS**, both the Village and County are authorized by law to enter into binding interlocal agreements to effectuate joint governmental functions; and

**WHEREAS**, the Village has budgeted sufficient funds for the costs of the CMT Improvements.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF KEY BISCAVNE, FLORIDA, AS FOLLOWS:**

**Section 1.** That the Interlocal Joint Use Agreement for Calusa Mangrove Trail is hereby approved, in substantially the form attached hereto, and the Mayor is authorized to execute the Agreement on behalf of the Village.

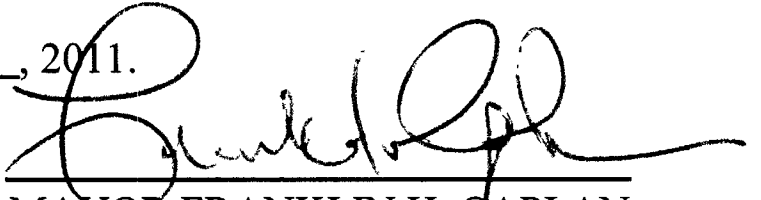
**Section 2.** That the Village Manager is further authorized to execute all documents necessary to implement the Agreement on behalf of the Village.

**Section 3.** That the Village Manager and Village Attorney are authorized to take any and all actions necessary to implement the Agreement.

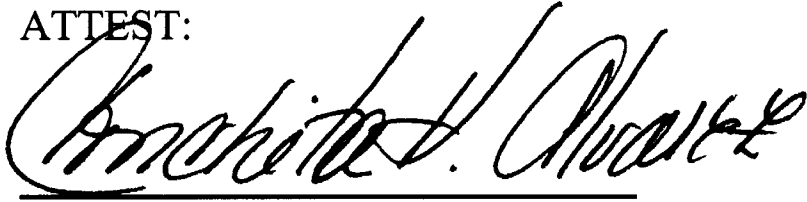
**Section 4.** That upon execution by the Village and the County, the Clerk is hereby directed to cause the agreement to be recorded in the public records of Miami-Dade County, as required by Florida law.

**Section 4. Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this 24th day of May, 2011.

  
MAYOR FRANKLIN H. CAPLAN

ATTEST:



CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



  
VILLAGE ATTORNEY

**OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
MIAMI-DADE COUNTY, FLORIDA**



**MEMORANDUM**

Agenda Item No. 8(M)(1)(A)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

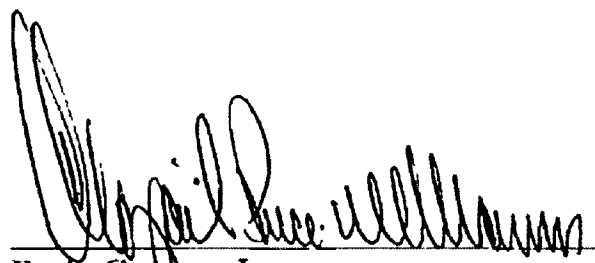
**DATE:** September 1, 2011

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution approving interlocal  
agreement between Village of Key  
Biscayne and Miami-Dade County for  
the use, improvement and  
maintenance of Calusa Mangrove  
Trail area of Crandon Park, including  
Village payment of up to \$300,000;  
and authorizing County Mayor to  
execute the agreement on behalf of  
the County and to exercise any and  
all rights contained therein

Resolution No. R-671-11

The accompanying resolution was prepared by the Parks and Recreation Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.



R. A. Cuevas, Jr.  
County Attorney

RAC/cp

# Memorandum



**Date:** September 1, 2011

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Allina T. Hudak  
County Manager

**Subject:** Calusa Mangrove Trail at Crandon Park  
Interlocal Joint Use Agreement

A handwritten signature in black ink, appearing to read "Allina T. Hudak".

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## **Recommendation**

It is recommended that the Board adopt the attached resolution approving an Interlocal Joint Use Agreement between Miami-Dade County and the Village of Key Biscayne (VKB) for the use, improvement and maintenance of certain County lands within Crandon Park (Calusa Mangrove Trail area), including a payment of up to \$300,000 from the VKB to fund the County's improvement of the Park, and authorizing the County Mayor or County Mayor's designee to execute such Agreement on behalf of Miami-Dade County and to exercise any and all other rights conferred therein.

## **Scope**

Calusa Mangrove Trail consists of approximately nine (9) acres within Crandon Park, a 904-acre countywide metropolitan park, which is located at 4000 Crandon Boulevard within County Commission District 7. The Trail area lies within the jurisdictional boundaries of VKB. Approval of the Interlocal Agreement will authorize the long-term use and programming of the Calusa Mangrove Trail area by the VKB for the benefit of all County residents.

## **Fiscal Impact/Funding Source**

The VKB agrees to assume all costs associated with use and maintenance of the Calusa Mangrove Trail area within Crandon Park and to contribute up to \$300,000 for improvements therein. The VKB will also provide all staff, programming, security and insurance required for park operations. This Agreement will reduce the County capital costs associated with the Crandon Park Master Plan by up to \$300,000 and will reduce future County operating and maintenance budgets since the VKB will assume all operating and maintenance costs.

## **Track Record/Monitor**

Randy Koper, Property Management Section of the Park and Recreation Department (MDPR), will monitor compliance of the Agreement.

## **Background**

As part of its incorporation, the County approved an Interlocal Agreement (R-970-92) allowing the VKB to use and provide park and recreation services within the Calusa Mangrove Trail area of Crandon Park (Exhibit A). For almost twenty (20) years, the VKB has used, staffed and maintained that portion of the Park largely for the benefit of VKB residents, but without the benefit of a long-term agreement.

The Crandon Park Master Plan required that the Calusa Park Playhouse, play equipment and tennis courts be razed or removed and the recreation center be modified to South Florida vernacular style and retain only restrooms, storage, closet and open-roofed shelter. In the Settlement Agreement between Bruce Matheson and Miami-Dade County dated January 14, 1993, the County agreed to make specific improvements to the Calusa Mangrove Trail required by the Crandon Park Master Plan by May 2012. In

Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners  
Page 2

addition, the Crandon Park Master Plan Amendment Committee in 2007 agreed to a request by the VKB to delay the removal of lighted ballfields within Crandon Park, as required by the Crandon Park Master Plan, if the VKB paid the estimated \$250-\$300,000 cost to make required park improvements to the Calusa Mangrove Trail (Exhibit B). The proposed Interlocal Joint-Use Agreement would memorialize the VKB's contribution towards the required improvement in the Calusa Mangrove Trail area of Crandon Park, as well as set a date for such payment, and would allow the VKB to formally and jointly use Calusa Mangrove Trail while assuming the long-term maintenance of the area.

The Interlocal Joint Use Agreement (Exhibit C):

1. Legally establishes how the VKB can jointly use, improve and maintain County land for the benefit of all County residents.
2. Establishes the term of the Agreement as ten (10) years with three (3) ten-year options to renew.
3. Defines when and how much the VKB will reimburse the County to complete certain improvements required for the area by the Crandon Park Master Plan, as amended.
4. Provides that the VKB will assume security, operations, maintenance and service responsibilities for Calusa Mangrove Trail.
5. Institutes VKB insurance and indemnification requirements to GSA Risk Management specifications.

Attachments

  
Assistant County Manager



# MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

DATE: September 1, 2011

FROM: R. A. Cuevas, Jr.  
County Attorney

SUBJECT: Agenda Item No. 8(M)(1)(A)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_\_, 3/5's \_\_\_\_\_, unanimous \_\_\_\_\_) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(M)(1)(A)  
9-1-11

RESOLUTION NO. R-671-11

RESOLUTION APPROVING INTERLOCAL AGREEMENT BETWEEN VILLAGE OF KEY BISCAYNE AND MIAMI-DADE COUNTY FOR THE USE, IMPROVEMENT AND MAINTENANCE OF CALUSA MANGROVE TRAIL AREA OF CRANDON PARK, INCLUDING VILLAGE PAYMENT OF UP TO \$300,000; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY AND TO EXERCISE ANY AND ALL RIGHTS CONTAINED THEREIN

**WHEREAS**, Miami-Dade County Park and Recreation Department (heretofore known as "COUNTY") is required to complete certain capital improvement projects within Crandon Park, inclusive of the Calusa Mangrove Trail ("CMT") area, in accordance with the terms and conditions of the Crandon Park Master Plan, as amended; and

**WHEREAS**, as a condition of extending the availability of lighted fields within Crandon Park, the Village of Key Biscayne ("VKB") agreed to pay the cost of certain improvements within the CMT and further desires to jointly use CMT with the COUNTY; and

**WHEREAS**, the VKB and COUNTY now desire to establish a Interlocal Joint Use Agreement for the long-term use, maintenance and improvement of CMT as a means of implementing certain terms of the Crandon Park Master Plan and increasing recreational opportunities open to all County residents,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board: (1) approves the Interlocal Agreement between the VKB and COUNTY for the use, maintenance and improvement of land within Crandon Park in substantially the form attached hereto as Exhibit C;

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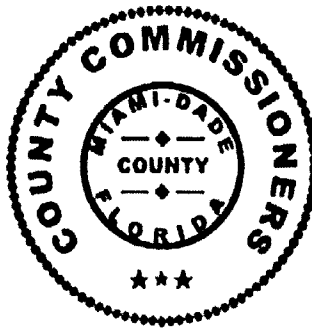


(2) accepts up to \$300,000 from the VKB to pay for certain improvements within CMT; and (3) authorizes the County Mayor or County Mayor's designee to execute the Interlocal Agreement and to exercise any and all rights conferred therein on behalf of the County.

The foregoing resolution was offered by Commissioner Jose "Pepe" Diaz, who moved its adoption. The motion was seconded by Commissioner Audrey Edmonson and upon being put to a vote, the vote was as follows:

	Joe A. Martinez, Chairman	aye	
	Audrey M. Edmonson, Vice Chairwoman	aye	
Bruno A. Barreiro	absent	Lynda Bell	aye
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	absent
Xavier L. Suarez	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 1<sup>st</sup> day of September, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

Monica Rizo



CFN 2011R0652456  
OR Bk 27841 Pgs 2054 - 2070; (17pgs)  
RECORDED 09/28/2011 10:57:42  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**INTERLOCAL  
JOINT USE AGREEMENT  
FOR  
CALUSA MANGROVE TRAIL**

This Interlocal Joint Use Agreement ("Agreement") is entered into by and between Miami-Dade County ("COUNTY"), a political subdivision of the State of Florida, and the Village of Key Biscayne, Florida ("VILLAGE"), a Florida municipal corporation, on the 1<sup>st</sup> day of September, 2011 pursuant to Resolution 671-11, passed and adopted by the Miami-Dade Board of County Commissioners on the 1<sup>st</sup> day of September 2011, and pursuant to Resolution No. 2011-9, passed and adopted by the VILLAGE on the 24 day of April, 2011, for joint improvement, use and maintenance of a portion of Crandon Park and generally known as the Calusa Mangrove Trail ("CMT"), see Exhibit "1".

**WITNESSETH:**

**WHEREAS**, the COUNTY, through its Park and Recreation Department, operates and maintains Crandon Park as a countywide park to provide recreational facilities, programs and services to COUNTY residents; and

**WHEREAS**, the COUNTY, in the interest of increasing public access to certain parts of Crandon Park, desires to allow the VILLAGE to use certain park facilities in a manner that does not adversely impact natural resources or recreational program accessibility; and

**WHEREAS**, the COUNTY, pursuant to provisions of the Recreation and Open Space Element of the Comprehensive Development Master Plan (Objective ROS-1C), the COUNTY can provide local recreation open space to municipalities through an Interlocal Agreement; and

**WHEREAS**, Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," authorizes local government units to enter into Interlocal agreements for the mutual benefit of said governmental units; and

**WHEREAS**, Sections 166.021 and 125.01, Florida Statutes, authorize the County and the City to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, any use of the CMT must comply with the Crandon Park Master Plan, as it may be amended, that identifies the CMT area as requiring, among other requirements: 1) the renovation of the existing recreation center into an open-but-roofed shelter; 2) renovation and upgrading the restrooms to comply with current Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, et seq), as amended from time to time; and 3) renovation and conversion of the four existing non-lighted tennis courts to multipurpose sport courts, all by May 2012; pursuant to plans submitted by the VILLAGE to the COUNTY, in accordance with the Crandon Park Master Plan, as amended (the "CMT Improvements"); and

**NOW, THEREFORE**, in consideration of the terms and conditions, promises and covenants hereinafter set forth, the parties agree as follows to jointly utilize that portion of Crandon Park now known as Calusa Mangrove Trail ("CMT") as defined by Exhibit "1" and as further set forth herein.

**1. Recitals, Findings and Purpose.**

The recitals and findings set forth above are hereby adopted by reference and incorporated herein as if fully set forth in this section.

The purpose of this Agreement is to memorialize the agreement between the parties regarding the joint use, maintenance and improvement of the CMT, as defined and depicted in Exhibit "1" which is incorporated herein by reference, and is not intended and does not serve to create an interest in land of the CMT or any other part of the COUNTY property in Crandon Park.

**2. VILLAGE agrees to the following:**

- a. VILLAGE will, at its own cost and expense, maintain an adequate standard for grounds maintenance, facility maintenance and security for facilities and structures located within the CMT as defined by Exhibit "2";
- b. VILLAGE, at its own cost and expense, will provide security for the grounds, facilities and structures to consist, minimally, of Village of Key Biscayne Park and Recreation Department staff surveillance during the day and Village of Key Biscayne Police Department patrol during the evening.
- c. The CMT shall be open to the public at large, which shall have access to the grounds, facilities and structures within the CMT, all weekdays and weekends, sunrise to sunset, throughout the year, except as otherwise specifically set forth herein. COUNTY may, on an infrequent basis, reserve exclusive use of the CMT area provided there is no conflict with previously scheduled activities; and subject to no less than ten (10) days advance written request to the VILLAGE Manager. VILLAGE Manager's consent shall not be unreasonably withheld. Likewise, the VILLAGE may, on an infrequent basis, reserve exclusive use of the CMT area, provided there is no conflict with previously scheduled activities and subject to no less than ten (10) days advance written request to the COUNTY's Director of the Park and Recreation Department. COUNTY's Director of the Park and Recreation Department shall not unreasonably withhold consent.
- d. As consideration for the Crandon Park Amendment Committee allowing the ballfield lights to conditionally remain at Crandon Park for up to eight years from 2005, the VILLAGE will provide design and permitting and pay to the COUNTY the actual cost for the COUNTY to complete the CMT Improvements, inclusive of COUNTY bidding, project management, construction supervision and project close out, which actual cost is currently estimated to be approximately \$258,000.00. However, in no event shall the

VILLAGE's financial responsibility for the CMT improvements exceed \$300,000 or be less than \$250,000. Should the actual construction cost be less than \$250,000, such funds remaining after completion of the CMT Improvements will be used by the COUNTY to make mutually agreed upon improvements to Crandon Park, consistent with the Crandon Park Master Plan, as amended.

- c. VILLAGE will designate a Village Park Manager to coordinate with a COUNTY designee for all scheduling and other issues related to usage by either party of the areas identified in Exhibit "A". Said Park Manager shall be responsible for emergency response to all Calusa Mangrove Trail incidents. In accordance with COUNTY incident reporting procedures, the Park Manager must report all emergencies to the COUNTY designee located at Crandon Park within 24 hours of the incident.
- f. VILLAGE will meet annually with the COUNTY to jointly coordinate a schedule for the year which may include all events, activities, programs and exclusive use periods known at that time.
- g. VILLAGE shall be responsible for providing landscape maintenance and facility maintenance services to the CMT in accordance with the requirements of the standards of the Crandon Park Master Plan and the Landscaping Maintenance Services plan, a copy of which is attached hereto and made a part hereof as Exhibit 2 (the "Landscape Maintenance Services Plan"). For purposes of this Agreement, the term "landscape" or "landscaping," shall mean living plant materials and non-living durable materials commonly used in environmental landscape design such as, but not limited to, curbing, rocks, pebbles, sand, paving, decorative pavers, pump systems, grading and irrigation systems. The maintenance of any and all such landscaping within the CMT shall comply with applicable requirements of the County's Code of Ordinances, and, if changed from Exhibit 2 at the request of the VILLAGE, shall be approved, in writing, by the County's Director of the Parks and Recreation Department or his/her designee, and said approval shall not be unreasonably withheld or delayed.

**3. COUNTY agrees to the following:**

- a. COUNTY will complete, at the sole cost of the VILLAGE, the CMT Improvements, inclusive of COUNTY bidding, project management, construction supervision and project close out by May 31, 2012. The VILLAGE has agreed to design and permit the improvements at no cost to the COUNTY.
- b. COUNTY shall designate a County Park Manager to coordinate with VILLAGE Park Manager for all scheduling and other issues related to usage by either party of the areas identified in Exhibit "A".

- c. The COUNTY will meet annually with VILLAGE to jointly coordinate a schedule for the year which may include all events, activities, programs and exclusive use periods known at that time.

**4. COUNTY and VILLAGE agree to the following:**

- a. VILLAGE shall be responsible to secure and lock any storage room/s when not in use and unlock the restrooms at sunrise and lock the restrooms at sunset.
- b. VILLAGE will not park any VILLAGE vehicles overnight or store any property on any part of CMT as defined by Exhibit "A", except for poles, nets and other shelter equipment used on the multi-purpose courts. This equipment will be stored in the storage room of the shelter.
- c. VILLAGE shall separately meter (or cause to be metered) and pay for all utilities used within area identified in Exhibit "A" at its sole cost and expense. All utility modifications and payments shall commence at the execution of this Agreement.
- d. VILLAGE shall maintain and use CMT as a public park and shall use, maintain and keep CMT open, along with all improvements contained therein, for the use, enjoyment and recreation of all members of the public, whether or not such users are VILLAGE residents.
- e. VILLAGE shall not discriminate against non-VILLAGE residents in program registration, in pricing, in registration or reservation priorities or in any other policies as they relate to the use and operation of CMT.
- f. VILLAGE shall refer to CMT in all publications, notices and program registrations as "Calusa Mangrove Trail in Crandon Park".
- g. VILLAGE will comply with all applicable County Ordinances and, specifically, Article 7 of the County Charter, the Crandon Park Master Plan and Chapter 26 of the County Code of Ordinances relating to Parks, including the Shannon Melendi Act.
- h. VILLAGE agrees that, in accordance with the Crandon Park Master Plan, all advertising, merchandising or promotion of any product, service or organization whatsoever (either express or implied) shall be prohibited on, over or within CMT, including but not limited to advertising associated with graphic panels, signs, billboards, bus benches, bus shelters, banners, audio or video devices, balloons, temporary graphic displays or similar devices. No activity, feature or building shall be advertised or promoted on the Crandon Park lands by a sign, flag or banner or any other means.
- i. VILLAGE and COUNTY, in accordance with the Crandon Park Master Plan, shall ensure that all users, vendors, permittees, lessees, promoters, concessionaires or other purveyors of goods or services upon CMT pay the VILLAGE and/or COUNTY, as applicable, a fee which is the greater of a flat

fee or a minimum of 10% of all gross revenue generated by the permittee, lessee, promoter, concessionaires or other purveyor from any activities occurring on the CMT for which a price, charge, trade, barter or fee is imposed. Such funds shall be devoted to implementing the Crandon Park Master Plan and maintaining the CMT. VILLAGE shall separately document and account for its receipt of any such funds and the use of such funds solely within the CMT.

#### **4. Term**

- a. The term of the Agreement shall be ten (10) years, commencing upon execution of this Agreement by the VILLAGE and COUNTY.
- b. VILLAGE may request, in writing, no earlier than one-hundred and eighty (180) days in advance of the applicable expiration date, the renewal of this Interlocal Joint Use Agreement for up to three (3) additional ten-year option terms, which may be approved at the sole discretion of the COUNTY.

#### **6. Payment**

- a. VILLAGE will pay to the COUNTY, in an amount not to exceed \$300,000, the total cost to the COUNTY for the COUNTY to complete the CMT Improvements, inclusive of COUNTY bidding, project management, construction supervision and project close out. Payment from the VILLAGE shall be provided by check to the COUNTY in two installments: \$100,000 within ten (10) days of approval of the Agreement by the Board of County Commissioners and the balance within thirty (30) days of the VILLAGE being notified by the COUNTY of final completion of the CMT Improvements.
- b. As previously stated herein, VILLAGE will assume the costs to maintain existing and proposed landscape and facilities during the term of the Agreement.
- c. Further, VILLAGE shall provide evidence of such funding to the County Mayor or designee in a VILLAGE resolution authorizing the VILLAGE to enter into an Agreement expressly for such purposes, prior to the execution of this Agreement.

#### **7. Additional Improvements**

- a. VILLAGE may, upon prior notification to and the written approval of the County's Director of the Parks and Recreation Department, install or construct within the Parks, at its expense, additional landscaping materials or hardscape, including but not limited to benches and trash receptacles, all of which require compliance with the Crandon Park Master Plan, as amended. The location of said landscaping or hardscaping shall be approved by the COUNTY's Parks and Recreation Director or his or her designee prior to installation. Any such requests by the VILLAGE shall not be unreasonably withheld or delayed. If any such additional improvements are installed, the VILLAGE agrees to

maintain the same, at its sole cost and expense, in accordance with the terms of this Agreement.

- b. COUNTY may, upon prior notification to and the written approval of the VILLAGE, install or construct within the CMT portion of the Park, at its sole cost and expense, additional landscaping materials or hardscape, including but not limited to, benches and trash receptacles. The location of said landscaping or hardscaping shall be approved by the VILLAGE prior to installation. Any such requests by the COUNTY shall not be unreasonably withheld or delayed. If any such additional improvements are installed pursuant to this provision, the VILLAGE shall be responsible to maintain the same in accordance with the terms of this Agreement.

## **8. Construction of Additional Improvements**

- a. Prior to the commencement of any additional construction by the VILLAGE with a cost of \$200,000 or more, the VILLAGE or its contractor shall furnish the COUNTY with a Section 255.05, Florida Statutes, statutory payment and performance bonds, as described herein, approved by the COUNTY, which approval shall not be unreasonably withheld. The bond shall be that of a responsible surety company qualified under the terms of the Agreement, licensed to do business in Florida, in amounts not less than the cost of work, as determined by the COUNTY and shall remain in effect until the entire cost of the VILLAGE's work shall have been paid in full. The bonds shall provide the following, without limitation:

- 1) That a payment bond in an amount not less than the cost of construction of VILLAGE's work is obtained that is conditioned to secure the completion of VILLAGE's work free from all liens and claims of contractors, subcontractors, mechanics, laborers and material; and
- 2) That a performance bond in an amount not less than the cost of construction of VILLAGE's work is obtained that insures that the construction work shall be completed by the VILLAGE, the general contractor or, on their default, the surety.

If the construction work to be performed by the VILLAGE has a construction cost of less than \$200,000 and the VILLAGE elects not to obtain a statutory payment and performance bond for such work, then the VILLAGE agrees to perform such work by strictly following the procedures set out in Rule 60D-5.0041(2) of the Florida Administrative Code. In the event that a contractor, subcontractor, materialman, laborer, and/or supplier on a project undertaken by the VILLAGE make a claim or demand against the COUNTY arising from its work on such project, the VILLAGE agrees to defend and indemnify the COUNTY against such claim or demand.

- c. Prior to the commencement of construction, the VILLAGE shall cause its contractor to provide an original policy for Builders Risk/Installation Floater

on an "All Risk" basis in an amount not less than the estimated replacement value at the time of completion of new buildings, structures, additions, improvements, alterations, repairs, machinery or equipment. The policy shall be in the name of Miami-Dade County as primary beneficiary and the Contractor as their interests may appear. This insurance is to be maintained until final completion of the work, as determined by the Park and Recreation Department.

- d. All construction work must meet or exceed requirements of applicable building codes in effect. During construction the VILLAGE shall retain all responsibility for securing the construction site. The VILLAGE shall be solely responsible for payment of all project cost and any cost overruns. The VILLAGE shall be solely responsible for overseeing the construction project from permitting through final completion.
- e. The VILLAGE agrees to perform the construction work as provided herein, in compliance with all applicable local, State, and Federal laws, including but not limited to Section 255.20 of the Florida Statutes.

## **9. Indemnification**

- a. The COUNTY shall indemnify and hold VILLAGE and its officers, employees, agents and instrumentalities harmless from any and all liability, losses, damages, including attorney's fees and costs of defense, which VILLAGE may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Agreement by the COUNTY and COUNTY shall defend the VILLAGE, including any and all appellate actions, in any such actions or proceedings whether in the name of the VILLAGE or otherwise. Provided, however, the indemnification contained herein shall only be to the extent and within the limitations of Section 768.28 Florida Statutes, subject to the provisions of the Statute whereby the COUNTY shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000 (\$200,000 for claims arising on or after July 1, 2011), or any claim or judgment or portions thereof, which when totaled with all other claims or judgments paid by the COUNTY arising out of the same incident or occurrence, exceed the sum of \$200,000 (\$300,000 for claims arising on or after July 1, 2011) from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise solely as a result of the negligence of the COUNTY.
- b. The VILLAGE shall indemnify and hold COUNTY and its officers, employees, agents and instrumentalities harmless from any and all liability, losses, damages, including attorney's fees and costs of defense, which COUNTY may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Agreement by the VILLAGE and VILLAGE shall defend the COUNTY, including any and all appellate actions, in any such actions or proceedings whether in the name of the COUNTY or otherwise.



Provided, however, the indemnification contained herein shall only be to the extent and within the limitations of Section 768.28 Florida Statutes subject to the provisions of the Statute whereby the VILLAGE shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000 (\$200,000 for claims arising on or after July 1, 2011), or any claim or judgment or portions thereof, which when totaled with all other claims or judgments paid by the VILLAGE arising out of the same incident or occurrence, exceed the sum of \$200,000 (\$300,000 for claims arising on or after July 1, 2011) from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise solely as a result of the negligence of the VILLAGE..

## **10. Insurance**

- a. Should VILLAGE hire a contractor to undertake further improvements, the landscape maintenance, facility maintenance or security required pursuant to this Agreement, or contract to undertake programming and events by a contractor, VILLAGE or contractor shall submit to COUNTY copies of its required insurance coverage and specifically provide that COUNTY (defined to mean the county, its officers, agents, employees, volunteers and representatives) as an additional insured or additional named insured with respect to the required coverage and the operations of contractor.
- b. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then, in that event, Contractor shall furnish, at least thirty (30) calendar days prior to expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of that period of the contract and extension there under is in effect. VILLAGE and Contractor shall not continue to complete the improvements or perform under the terms of this Agreement unless all required insurance remains in full force and effect.
- c. VILLAGE shall require Contractor to procure and maintain at its own expense, and keep in effect during the full term of the Agreement, a policy or policies of insurance which must include the following coverages and minimum limits of liability.
  1. Worker's Compensation Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoreman's and Harbor Worker's Act, the Federal Employers' Liability Act and the Jones Act. Employer's Liability Insurance shall be provided with a minimum of one hundred thousand dollars (\$100,000.00) per accident. Contractor shall agree to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.
  2. Comprehensive General Liability (occurrence form), with the following minimum limits of liability, with no restrictive endorsements:

\$500,000 Combined Single Limit, per occurrence, Bodily Injury & Property Damage Coverage shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

1. Premises and Operations;
2. Independent Contractors;
3. Product and Completed Operations Liability;
4. Broad Form Property Damage; and
5. Broad Form Contractual Coverage applicable to the Agreement and specifically insuring the indemnification and hold harmless agreement provided herein.

3 Automobile Liability Insurance, covering all owned, non-owned, and hired vehicles used in connection with the Lease Agreement in an amount not less than \$500,000 combined single limit for bodily injury and property damage.

- e. COUNTY does not in any way represent that the types and amounts of insurance required hereunder are sufficient or adequate to protect VILLAGE's or Contractor's interest or liabilities, but are merely minimum requirements established pursuant to this Agreement.
- f. Insurance companies selected by the Contractor must be acceptable to COUNTY. All of the policies of insurance required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the COUNTY and to the VILLAGE.
- g. The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with a minimum rating of B+ to A+, in accordance with the latest edition of A.M. Best's Insurance Guide.
- h. Any Contractor retained by the VILLAGE to perform work at the subject property shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that they shall have no recourse against the COUNTY for payment or assessments in any form on any policy of insurance.
- i. COUNTY shall provide written notice of the occurrence to VILLAGE of any possible insurable claim or event within fifteen (15) working days of COUNTY's actual notice of such a claim or event.
- j. Violation of the terms of this Section and its sub-parts shall constitute a breach of the Agreement, and COUNTY, in its sole discretion, may cancel the Agreement, and all rights, title and interest of the VILLAGE in this

Agreement shall thereupon cease and terminate, subject to the provisions of Paragraph 11 hereof.

#### **11. Default and Cancellation**

- a. If the VILLAGE in any manner violates the covenants and conditions of this Agreement for any other reason that would place the VILLAGE in default, and does not correct the violation within thirty (30) days after receiving written notification from the COUNTY, or has not provided the COUNTY with a written response within thirty (30) days after receiving said written notification indicating the status of why the VILLAGE cannot correct the violation within the thirty (30) days, then this Interlocal Joint Use Agreement may, at the option of the COUNTY, and upon ten (10) days additional written notice to VILLAGE, be cancelled forthwith without payment or compensation to VILLAGE.
- b. If the COUNTY in any manner violates the covenants and conditions of this Agreement for any other reason that would place the COUNTY in default, and does not correct the violation within thirty (30) days after receiving written notification from the VILLAGE, or has not provided the VILLAGE with a written response within thirty (30) days after receiving said written notification indicating the status of why the COUNTY cannot correct the violation within the thirty (30) days, then this Interlocal Joint Use Agreement may, at the option of the VILLAGE, and upon ten (10) days additional written notice to COUNTY, be cancelled forthwith without payment or compensation to COUNTY.
- c. In the event of cancellation of this Agreement as herein provided, the VILLAGE shall remove all of its personal property and discontinue its use of the facilities located within Exhibit "A".

#### **12. Termination**

- a. COUNTY may terminate this Agreement with or without cause by providing VILLAGE with at least one-hundred eighty (180) days written notice. Upon or prior to the effective date of termination, COUNTY shall thereafter be responsible for all Landscape Maintenance Services within the Parks.

#### **13. Amendments**

The County Manager, or his designee, shall be the party designated by the COUNTY, and the Village Manager, or his designee, shall be the party designated by the VILLAGE, to grant or deny all approvals required by this Interlocal Joint Use Agreement, or to terminate this Interlocal Joint Use Agreement.

#### **14. Notices**

Except as otherwise provided herein, all notices or other communications which shall or may be given pursuant to this Interlocal Joint Use Agreement shall be in writing and shall be delivered by personal service or by certified mail addressed to the parties at their respective addresses indicated below, or as the same may be changed, in writing, from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

To the VILLAGE: Village Manager

The Village of Key Biscayne  
Village of Key Biscayne Village Hall  
88 W. McIntyre Street  
Key Biscayne, FL 33149

To the COUNTY:

County Manager  
Stephen P. Clark Center  
111 N.W. First Street, 29th Floor  
Miami, Florida 33128

With a copy to:

Miami-Dade County Park & Recreation Department  
Attn: Director  
275 N.W. 2nd Street  
Miami, Florida 33128

## **15. Assignment**

Neither party shall assign, transfer, sublet or subject this Agreement or its rights, title, or interest thereupon without the other party's prior written approval, to be given in the sole discretion of such party.

## **16. Governing Law and Venue**

The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection, or dispute arising out of the terms of this Agreement shall be litigated in the Eleventh Judicial Circuit in and for Miami-Dade COUNTY, Florida.

## **17. Construction of Agreement**

The terms and conditions herein are to be construed with their common meaning to effectuate the intent of this Agreement. All words used in the singular form shall extend to and include the plural and all words in the plural form shall extend to and include the singular. All words in any gender shall extend to and include all genders.

## **18. Entire Agreement, No Oral Modification**

This Agreement represents the entire and integrated agreement between COUNTY and VILLAGE, and supersedes all prior negotiations, representations or agreements, either written or verbal. This Agreement may only be amended by written instruments signed by both COUNTY and VILLAGE and may include other services only if directly related to the intent and scope of this Agreement. The failure of a party to insist on strict performance of any terms of this Agreement shall not be construed as a waiver and relinquishment for the future of any term, condition or election but the same shall remain in full force and effect.

#### **19. Severability**

In the event any paragraph, clause or sentence of this Interlocal Joint Use Agreement or any future amendment is declared invalid by a court of competent jurisdiction, such paragraph, clause or sentence shall be stricken from the subject Interlocal Joint Use Agreement and the balance of the Interlocal Joint Use Agreement shall not be affected by the deletion thereof, provided to do so would not render interpretation of the lease provisions ambiguous or a nullity.

#### **20. Recording of Agreement**

It is agreed that this Agreement shall be filed with the Clerk of the Circuit Court of Miami-Dade County, as required by Section 163.01(11), Florida Statutes.

#### **21. Effective Date**

This Agreement shall become effective upon the execution by the County and the VILLAGE.

IN WITNESS WHEREOF, Miami-Dade County and Village of Key Biscayne, have caused these presents to be executed in their respective names, by proper officials, the day and year first above written.

Attest:

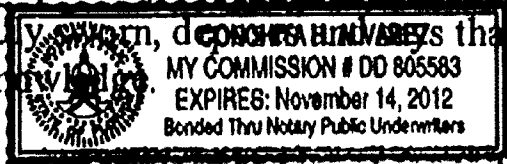
VILLAGE OF KEY BISCAYNE,  
FLORIDA, a political subdivision  
of the State of Florida

By: [Signature]

Village Mayor

STATE OF FLORIDA }  
COUNTY OF MIAMI-DADE }

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of June, 2011, by Francisco [Signature], who is personally known and who being duly sworn, deposes and says that the aforementioned is true and correct to his or her best knowledge.



[SEAL]

Notary Public: [Signature]  
Commission: [Signature]

Attest:

MIAMI-DADE COUNTY,  
FLORIDA, a political subdivision  
of the State of Florida

By: [Signature]

County Mayor

STATE OF FLORIDA }  
COUNTY OF MIAMI-DADE }

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of September, 2011, by Carlos A. Gimenez, respectively, of the Miami-Dade County, Florida, who is personally known and who being duly sworn, depose and say that the aforementioned is true and correct to their best knowledge.

[SEAL]

Notary Public: Jacqueline Anghel-Novick  
Commission: [Signature]

County Attorney review for  
Legal sufficiency

County Clerk

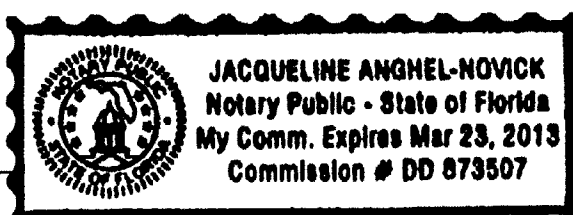


Exhibit 1  
Calusa Mangrove Trail  
Boundary Sketch

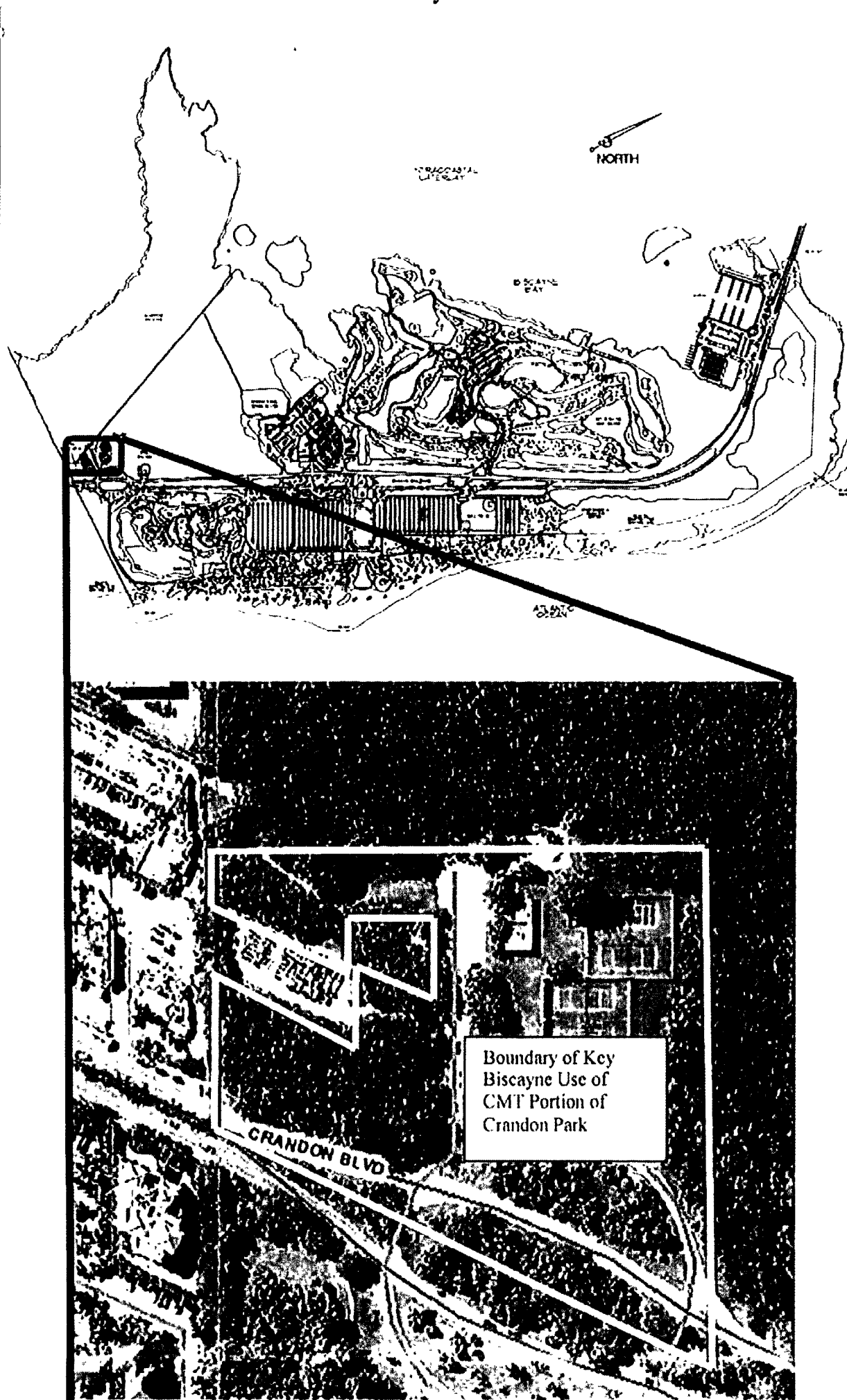


Exhibit 2  
Calusa Mangrove Trail  
Required Maintenance

VILLAGE to furnish all expertise, supervision, labor, equipment, material, transportation, and support services necessary to perform Landscaping Maintenance and Facility Maintenance, at the location(s) listed, at the quality, quantity and frequency specified.

**1. Landscape Maintenance**

**Turf Maintenance**

To be performed at a minimum of 26 cuts per year depending upon low and high growing season.

**Trimming**

Grass shall be trimmed 26 times/year during, or as an immediate operation following mowing. Trimming may be accomplished by hand or hand power shear or rotary cutting machines.

**Edging**

Mechanical edging (vertical trimming) shall be done a minimum of 26 times/year during, or as an immediate operation following mowing of all turf edges is to be used in all areas abutting sidewalks, flush paved surfaces, curbs, drives, patios, etc.

**Blowing/Sweeping**

Blowing and or sweeping of all sidewalks, flush paved surfaces, curbs, drives, patios, parking lots, etc. shall be done a minimum of 26 times/year during, or as an immediate operation following mowing

**Pruning Shrubs and Ground Cover Plants**

All planted shrubs, hedges and ground cover plants growing in the work areas shall be pruned to maintain plants in healthy, growing condition and to maintain plant growth within reasonable bounds and to prevent encroachment of passageways, walks, streets, view of signs or in any manner deemed objectionable by the individual Site Manager. Planters shall be trimmed and pruned as necessary to provide a uniform appearance. Mulch shall be applied to a depth of 2" twice a year. All non-planted exotic vegetation shall be removed or at least retained at the size and location as of the date of Agreement execution.

**Tree Care**



All trees to be maintained at a minimum canopy high of 8' at all walkways, bike path, common areas and areas so designated by the Project Manager.

#### **Weed Control**

All landscaped areas within the specified area including shrub and ground cover beds, planters, swales, walkways, and areas covered with gravel, rocks, or wood chips shall be kept free of weeds.

#### **Insect Control**

Using an IPM approach, the VILLAGE shall maintain all turf, shrubs, hedges and ground cover plants in a healthy, growing condition free of pest infestations and damage.

#### **Fertilization**

The VILLAGE shall fertilize all turf areas, shrubs and ground cover twice a year using a 50% slow release Nitrogen formula with a ratio of Nitrogen, Phosphorus and Potassium of 2/.5/1.

#### **Irrigation**

The County shall provide a working irrigation system. The VILLAGE will then maintain the system in working order. The VILLAGE will be required to inspect and repair the system on a monthly basis. All functional irrigation systems will be inspected once a month. Repairs to systems can be provided at an additional cost of parts + labor.

#### **Litter Control**

VILLAGE shall be responsible for removing all trash that would be cut or scattered by mowing prior to mowing, including illegal dumping and materials deemed dangerous to public use.

#### **Exotic Plant Control**

Pursuant to the County's Park and Recreation Department Natural Area Management Plan recommendations and guidelines, the Village shall manage exotic plant control by maintain existing exotic and invasive plants at levels equal or less than the condition at the time of execution of this Agreement.

## **2. Facility Maintenance**

### **Buildings and Surfaces**

The VILLAGE shall paint the buildings and structures a minimum of every 5 years or at such time as the condition of the paint warrants application because the appearance or protection of the structures falls below acceptable County standards.

The VILLAGE shall maintain for the length of the agreement, all electrical, plumbing and sewer fixtures and services.

The VILLAGE shall maintain for the length of the agreement, the roofs on all buildings and structures to prevent leaks that may damage interior areas and roof supports.

The VILLAGE shall maintain handicap parking signage/parking spaces and no parking areas. The VILLAGE shall reseal and restripe parking lots a minimum of 1 time every 3 years or when required to maintain the parking area to County acceptable conditions.

The VILLAGE shall resurface the multi-use courts a minimum of every 5 years or when required to maintain the courts to County acceptable conditions.

### **Cleaning Standards**

The VILLAGE agrees to clean the buildings and restrooms a minimum of daily, twice a day on weekends, holidays and during periods of high use (camps).

The VILLAGE agrees to empty trash containers a minimum of daily, twice a day on weekends, holidays and during periods of high use (camps).

The VILLAGE agrees to pick up litter and illegally dumped material from the facility grounds a minimum of daily, twice a day on weekends, holidays and during periods of high use (camps).

The VILLAGE agrees to maintain picnic tables and grills in a safe, working order.

The VILLAGE agrees to replace tables and grills immediately if they become unsafe or unsightly.

The VILLAGE shall pressure wash and clean the exterior of all buildings, structures and court surfaces a minimum of 4 times a year.

### **Hurricane Protection**

The VILLAGE shall follow a COUNTY provided Hurricane preparedness manual for securing the grounds, parking lots, buildings and structures following County issued warnings.